

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Nathaniel Livingston, Jr., *et al.*,

Plaintiffs,

v.

Case No. 1:06cv337

James T. Redwine, *et al.*,

Judge Michael R. Barrett

Defendants.

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation ("R&R") filed on July 3, 2006 (Doc. 11).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Plaintiffs filed objections to the R&R on July 18, 2006 (Doc. 15) and July 24, 2006 (Doc. 17).

Plaintiffs' first-filed objections state that Plaintiffs object to the exercise of jurisdiction by the Magistrate Judge. Pursuant to 28 U.S.C. § 636 (a) and (b), and by Order of General Reference of this Court (dated March 25, 1991), the Magistrate Judges are authorized to proceed in certain categories of cases, including "[a]ll cases filed by pro se litigants." Therefore, the Court rejects Plaintiffs' objection to the exercise of jurisdiction by the Magistrate Judge.

Plaintiffs' second objections were filed on July 24, 2006. Under Federal Rule of Civil Procedure 6(a), in computing any period of time allowed by order of court, the day of the event from which the designated period of time begins to run shall not be included. The rule

provides further that when the period of time allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. Finally, under Rule 6(e), whenever a party must or may act within a prescribed period after certain types of service, 3 days are added after the prescribed period would otherwise expire. Accordingly, Plaintiffs' objections to the R&R were to be filed on or before July 21, 2006, and the objections filed on July 24, 2006 are untimely.

Having reviewed this matter *de novo* pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's R&R to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Plaintiffs' Motion for a Temporary Restraining Order and Mandatory Injunction (Doc. 4) is **DENIED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court